

(DRAFT)
Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
August 5, 2008 (9.00 a.m.)

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act

Robert Kirby, Board Member, presided No other Board members were present

Joseph Haughwout, Jr appeared for the Department of Professional and Occupational Regulation

The conferences were recorded by Inge Snead & Associates, LTD and the Summaries or Consent Orders are attached unless no decision was made

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Disciplinary Case/Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

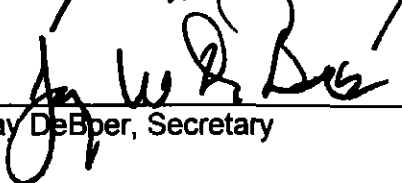
- | | |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1 Ervin Construction South LLC
File Number 2007-04605 (Disc) | William Ervin – R
Stephen Bamberger – C |
| 2 Anchor Asphalt Paving Inc
File Number 2008-01706 (Disc)
(NO DECISION MADE) | Charles Ris – C |
| 3 Mike Wade Builder Inc
File Number 2007-05005 (Disc)
(NO DECISION MADE) | Michael Wade - R
Robert Gordon – R Atty
Katrina Rainey – C
Jim Fletcher – W |
| 4 Apple Valley Pool and Relaxation Center LLC
File Number 2008-03092 (Disc)
(NO DECISION MADE) | None |
| 5 Steven L Foster, Jr
t/a Dominion General Contracting
File Number 2008-03384 (Disc)
(NO DECISION MADE) | Steven L Foster - R
Mike Sale – W
Steve Godwin – W
Denise Carter – W |

- | | | |
|---|------------------------------------------------------------------------------------------------|------|
| 6 | Amalgamated Building & Properties, Inc
File Number 2008-01335 (Disc)
(NO DECISION MADE) | None |
| 7 | Amalgamated Building & Properties, Inc
File Number 2008-01583 (Disc)
(NO DECISION MADE) | None |
| 8 | Amalgamated Building & Properties, Inc
File Number 2008-03865 (Disc)
(NO DECISION MADE) | None |

The meeting adjourned at 1 34 p m

BOARD FOR CONTRACTORS


Robert M Kirby, Chairman


Jay DeBper, Secretary

COPY TESTE

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re Ervin Construction South LLC, t/a Ervin Construction South LLC
Occoquan, VA 22125

File Number 2007-04605
License Number 2705087297

CONSENT ORDER

Respondent Ervin Construction South LLC, t/a Ervin Construction South LLC ("Ervin Construction South LLC") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws

Board's Regulations provides

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54 1-1100 et seq) of Title 54 1 of the Code of Virginia, or any regulation of the board

Historical Notes

Derived from VR220-01-2 1 §5 1, eff March 31, 1995, amended, Virginia Register Volume 17, Issue 21, eff September 1, 2001

Pursuant to the Administrative Process Act §§2 2-4019 and 2 2-4021 of the 1950 Code of Virginia, as amended

On June 11, 2008, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ervin Construction South LLC, Attn William Ervin ("W Ervin"), to the address of record The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter The certified mail was signed for and received

On August 5, 2008, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation

The following individuals participated at the IFF W Ervin on behalf of Ervin Construction South LLC, Respondent, Stephen Bamberger ("Bamberger"), Complainant, Joseph Haughwout, Jr and Jennifer Winters, Staff Members, and Robert Kirby, Presiding Board Member

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order

The Board and Ervin Construction South LLC, as evidenced by the signatures affixed below, enter into this Consent Order Ervin Construction South LLC knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2 2-4020 and 2 2-4021 of the 1950 Code of Virginia, as amended

By signing this Consent Order, Ervin Construction South LLC acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Report of Findings Ervin Construction South LLC consents to the following term(s)

	Count 1	18 VAC 50-22-260 B 8	\$200 00
	Count 2	18 VAC 50-22-260 B 14	\$500 00
	Count 3	18 VAC 50-22-260 B 16	\$2,500 00

	SUB-TOTAL (MONETARY PENALTIES)		\$3,200 00
	BOARD COSTS		\$500 00
	TOTAL		\$3,700 00

In addition, the Board shall waive imposition of the \$2,500 00 monetary penalty and license revocation for Count 3 provided Ervin Construction South LLC reimburses \$20,520 00 to Bamberger and provides the Board with proof of the payment within ninety (90) days of the effective date of this order If Ervin Construction South LLC fails to comply with these conditions, then the full monetary penalty and license revocation will be automatically imposed

Further, Ervin Construction South LLC agrees to have a member of the Responsible Management successfully complete a Board-approved remedial education class

Any monetary penalties, costs, and/or sanctions are to be paid/performed within ninety days of the effective date of this consent order unless otherwise specifically noted above Ervin Construction South LLC acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Ervin Construction South LLC will be responsible for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due

Ervin Construction South LLC acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Ervin Construction South LLC's license

until such time as there is compliance with all terms of this Order. Ervin Construction South LLC understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2 2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board

SEEN AND AGREED TO:

The undersigned represents and affirms that he/she has the authority to legally bind Ervin Construction South LLC, t/a Ervin Construction South LLC, to this Consent Order. The individual, by his/her signature below, acknowledges he/she read the Consent Order, understands it, and agrees that Ervin Construction South LLC, t/a Ervin Construction South LLC, shall be bound by its terms and conditions.

Signature

Date

Printed Name and Title

SO ORDERED:

Entered this _____ day of _____, 2008

Board for Contractors

BY _____
Jay W DeBoer, Secretary

EOO

**VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
9960 MAYLAND DRIVE, SUITE 400
RICHMOND, VA 23233-1463**

REPORT OF FINDINGS

BOARD	Board for Contractors
DATE	February 19, 2008
FILE NUMBER	2007-04605
RESPONDENT	Ervin Construction South LLC
LICENSE NUMBER	2705087297
EXPIRATION	July 31, 2008
SUBMITTED BY	Lethia Slemmons, Investigator
APPROVED BY	Amy Chappell, Supervisor

COMMENTS

None

Ervin Construction South LLC ("Ervin") was at all times material to this matter a licensed Class A contractor in Virginia (No 2705087297)

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s)

BACKGROUND

On May 8, 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Stephen Bamberger ("Bamberger") regarding Ervin (Exh C-1)

On June 23, 2006, the Prince William County Circuit Court, "Ordered, Adjudged and Decreed that the Clerk of the Court promptly issue and deliver a check in the amount of \$20,520 00 to Ervin Construction South LLC, c/o Stephen A Bamberger, Esq , to fund demolishing of the burned residence by Ervin Construction LLC " (Exh C-3)

1 Board Regulation

18 VAC 50-22-260 Filing of charges, prohibited acts

B The following are prohibited acts

- 8 Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54-1-1100 of the Code of Virginia Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent

Historical Notes

Derived from VR220-01-2 1 §5 7, eff March 31, 1995, amended, Virginia Register Volume 17, Issue 21, eff September 1, 2001

Print Date February 1, 2006

FACTS

In or about June 2006, Ervin entered into a verbal agreement, in the amount of \$20,520 00, with Bamberger for the demolishing of a burned residence at 1939 Brooke Farm Court, Woodbridge, Virginia (Exh I-1)

On July 14, 2006, David C Mabie, Clerk of Circuit Court for Prince William County, issued a check in the amount of \$20,520 00 to Ervin Construction South LLC c/o Stephen A Bamberger (Exh C-2) Ervin acknowledges receipt of this payment (Exh R-1)

Ervin failed to make use of a legible contract clearly specifying the terms and conditions of the work to be performed prior to the acceptance of payment (Exh I-1)

2 Board Regulation

18 VAC 50-22-260 Filing of charges, prohibited acts

B The following are prohibited acts

- 14 Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more)

Historical Notes

Derived from VR220-01-2 1 §5 7, eff March 31, 1995, amended, Virginia Register Volume 17, Issue 21, eff September 1, 2001

Print Date February 1, 2006

FACTS

As of January 22, 2008, Ervin failed to perform any work On January 22, 2008, Ervin admitted work never started on this project (Exh I-1)

3 Board Regulation

18 VAC 50-22-260 Filing of charges, prohibited acts

B The following are prohibited acts

- 16 The retention or misapplication of funds paid, for which work is either not performed or performed only in part

Historical Notes

Derived from VR220-01-2 1 §5 7, eff March 31, 1995, amended, Virginia Register Volume 17, Issue 21, eff September 1, 2001

Print Date February 1, 2006

FACTS

In addition to the facts outlined in Count 2

On July 14, 2006, David C Mabie, Clerk of Circuit Court for Prince William County, issued a check in the amount of \$20,520 00 to Ervin Construction South LLC c/o Stephen A Bamberger (Exh C-2) Ervin acknowledges receipt of this payment (Exh R-1)

By letters dated January 8, 2007, February 9, 2007, and March 13, 2007, Bamberger requested Ervin return the funds received for work not performed (Exhs C-4, C-5, C-6)

As of January 22, 2008, Ervin failed to return money received for work not performed (Exh I-1)

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1 Name Robert Kirby
2 Title Board Member
3 Agency Board for Contractors
4 Transaction Informal Fact-Finding Conferences on August 5, 2008
5 Nature of Personal Interest Affected by Transaction NONE

6 I declare that

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction

AGC OF VA, PMP OF VA, BUILDERS & CONST. EXCH.

(b) I am able to participate in this transaction fairly, objectively, and in the public interest

Robert Kirby
Signature

8/5/08

Date